

CHAPTER 80-4-1

BUILDING AND LOAN ASSOCIATIONS GENERALLY

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80-4-1-.01 Definitions. Amended.

(1) "Association" means a Building and Loan Association as defined in Section 7-1-770 of the Financial Institutions Code of Georgia. Unless clearly indicated to the contrary, "association" shall include a State savings and loan as defined in Section 7-1-4(32) of the Financial Institutions Code of Georgia.

(2) "Share Capital" means the aggregate of payments on deposit accounts by members, plus dividends credited to such accounts, less redemption and purchase payments, plus any retained earnings accumulated; provided, however, in the case of a State savings and loan association, the term "share capital" shall mean the "statutory capital base" as defined in Section 7-1-4(35) of the Financial Institutions Code of Georgia.

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-.02 Incorporation. Amended

(1) No approval of the grant of any new charter to any association will be made unless it shall be shown to the satisfaction of the Commissioner that the persons proposing to create such new association are of good character and responsibility, that a necessity for such an association exists in the community to be served, that there is a reasonable probability of its usefulness and success, and that the establishment of such association will not cause undue injury to properly conducted existing local thrift and home-financing institutions. Not fewer than 200 persons shall subscribe for share capital of at least \$1,000,000. The Commissioner may require a larger number of subscribers and/or a larger amount of share capital to be subscribed based upon the projected needs of the association.

(2) No approval of any charter, amendment thereto, renewal thereof, bylaws or amendments thereto, will be granted unless satisfactory to the Commissioner both as to form and substance.

(3) No approval of the grant of any new charter to any association will be made unless it shall be shown to the satisfaction of the Commissioner that such association will have its accounts insured in accordance with the provisions of Code Section 7-1-797.

(4) Not less than five (5) percent of the subscribed capital shall be set aside to cover operating expenses of the association during the initial period of its corporate existence. The Commissioner may require such greater sums as he feels necessary to the safe and sound operation of the association.

(5) In lieu of the foregoing requirements of this Rule 80-4-1-.02, a State savings and loan association shall be incorporated pursuant to those requirements and standards set forth in Sections 7-1-390 through 7-1-398 of the Financial Institutions Code of Georgia applicable to commercial banks and Regulation 80-1-1 and the Statement of Policies issued in furtherance of that Code Chapter.

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-.03 Bonds. Amended.

Any director who is authorized to handle money or negotiable assets on behalf of an association and all officers and employees of an association shall be bonded by a regularly incorporated surety company authorized to do business in this State, and the association may pay the cost of such bond. The form, amount and surety of such bonds shall be such as is approved by the Board of Directors, but the Department may require an additional amount or new or additional surety.

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-.04 Books, Records and Accounts. Amended.

(1) Every association shall keep at its office correct and complete books of account and minutes of the proceedings of members, directors, and the Executive Committee. Complete records of all business transacted shall be maintained at the office of the association. Every association shall use such forms and observe such accounting principles and practices as are approved by the Commissioner.

(2) No association by any system of accounting or any device of bookkeeping shall, either directly or indirectly, enter any of its assets upon its books in the name of any other person, partnership, association, or corporation, or under any title or designation that is not truly descriptive of such assets. The Commissioner may order that assets in the aggregate to the extent that such assets have depreciated in value, be charged off, or that a special reserve or reserves equal to such depreciation in value be set up by transfers from undivided profits. The bonds or other interest-bearing obligations purchased by an association shall not be carried on its books at more than the actual cost thereof. An association shall not carry any real estate on its books at a sum in excess of the total amount invested by such association on account of such real estate, including advances, costs and improvements but excluding accrued but uncollected interest; provided, however, nothing herein shall prohibit appropriate accretion of discounts realized on securities purchased or otherwise accounting for the financial affairs of the association in accordance with generally accepted accounting principles.

(3) Every association shall appraise each parcel of real estate at the time of acquisition thereof. The Commissioner may require the appraisal of real estate securing loans which are delinquent more than six months. The report of each such appraisal shall be submitted in writing to the Board of Directors and shall be kept in the records of the association.

(4) Every association shall maintain membership records, which shall show the number of each membership certificate issued, the name and address of the member to whom issued, whether the member is a share-account holder, or a borrower, or a share-account holder and a borrower, the date of issue thereof, the name and address of each transferee of each membership certificate, and the date of transfer.

(5) Unless provided to the contrary in this Rule 80-4-1-.04, every association shall maintain its books and records in accordance with the provisions of Rule Chapter 80-1-3.

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-.05 Reserves. Amended.

(1) Every association shall set up and maintain the reserves required by and may set up and maintain such additional reserves as are permitted by these regulations. After payment of or provisions for all expenses, each association shall, before the declaration of any dividend, transfer to a separate reserve account, which shall be set up and maintained for the sole purpose of absorbing losses (termed in these regulations "General Reserve"), an amount equal to five (5) percent of its net earnings before payment of dividend/interest, until the General Reserve is equal to ten (10) percent of its capital. If and whenever the General Reserve is not equal to ten (10) percent of its capital, credits as above provided shall again be made to the General Reserve, until it shall again be equal to ten (10) percent of its capital. The Board of Directors may make additional reasonable transfers to the General Reserve or to other reserve accounts or retain reasonable amounts in Undivided Profits.

(2) For purposes of these reserve requirements, an association whose deposits are insured by a Federal Deposit Insurance Program may consider allocations to a Federal Insurance Reserve as complying with the five (5) percent minimum allocation from net income as outlined above. It is further provided that a minimum loss reserve equal to five (5) percent of total share liability must be attained by every association by the end of the 20th year of operation; provided further, however, that every association must continue to set aside five (5) percent of net income for loss reserve until the combined loss reserves are equal to ten (10) percent of share liability.

(3) Explanation: The association at the end of the 20th year of operation must have an established loss reserve of not less than five (5) percent of the total withdrawable savings accounts at the end of the fiscal year. Thereafter, the association must allocate to the loss reserve not less than five (5) percent of net income after expenses and before payment of earnings on savings accounts until the loss reserve reaches ten (10) percent of total withdrawable savings. So long as the reserve remains at or above ten (10) percent of total withdrawable savings, no annual allocation is required. Should the reserve fall below ten (10) percent, the requirement of five (5) percent allocation would again apply.

(4) In the case of a State chartered association, whose deposits are insured by a Federal Deposit Insurance Program, the minimum loss reserve requirement shall be the requirement stated above or the Federal Insurance requirement, whichever is greater.

(5) Every association shall maintain a Liquidity Reserve in accordance with the provisions of Regulation 80-1-7 promulgated by the Commissioner.

(6) The Commissioner may require additional, specific reserves based upon the asset condition and needs of the association.

(7) Sections (1) through (3) of this Rule 80-4-1-.05 shall not be applicable to a State savings and loan association. In lieu thereof, a State savings and loan association shall be subject to the provisions of Department of Banking and Finance Rule Chapter 80-1-12 applicable to commercial banks. Further, a State savings and loan association shall maintain a loss reserve equal to at least the average annual losses sustained from its lending activities during the most recent five calendar years of its operations.

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-.06 Investments. Amended.

(1) An association shall have power to invest in securities as follows:

(a) Without limit, in obligations of, or guaranteed as to principal and interest by, the United States or the State of Georgia;

(b) Without limit, in obligations of Federal Home Loan Banks;

(c) In stock of a Federal Home Loan Bank of which it is eligible to be a member;

(d) In the shares or share accounts of any association and of any Federal Savings and Loan Association not in excess of the maximum amount insurable in any such institution;

(e) In obligations to the Federal National Mortgage Association, Federal Intermediate Credit Banks, and Banks of Cooperatives; and

(f) In obligations or securities and to such limits as is allowed for investment by commercial banks pursuant to Regulation 80-1-4.

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-.07 Borrowing Power. Amended.

An association shall have power to borrow funds of not more than an aggregate amount equal to one-half of its share capital. A subsequent reduction of capital shall not affect in any way outstanding obligations for borrowed money. All such loans and advances may be secured by assets of the association. The Commissioner may permit borrowing in excess of the above limitations upon application.

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-.08 Membership in a Federal Home Loan Bank. Amended.

Any association shall have power to become a member of a Federal Home Loan Bank, to obtain loans from such bank to the full extent permitted by the Federal Home Loan Bank Act, and to pledge collateral as security for such loans, to comply with any condition of such membership or such credit, and to have and exercise all powers, rights and privileges conferred upon such member by the Federal Home Loan Bank Act.

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-.09 Insurance of Accounts. Amended.

Any association shall have the power to apply for, obtain and pay for insurance of its deposit accounts, and to comply with conditions or requirements incidental thereto and not inconsistent with the provisions of Code Title 7.

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-.10 Loans. Amended.

(1) An association may make loans to its members on the security of its deposits.

(2) An association may make loans secured by real estate and improvements thereon or an interest therein, which loans shall be amortized and repayable in consecutive monthly installments, equal or unequal, beginning not later than sixty (60) days after the date of the advance of the loan, sufficient to retire the debt, interest and principal, within forty (40) years; provided, however, that any loan contract extending for more than sixty (60) months shall not provide for any subsequent monthly installment after the sixtieth such installment of an amount larger than any previous monthly installment. Provided further, that in the case of construction loans, the first installment shall not be later than twenty-four (24) months after the date of the first advance; and no such loan, during the construction phase, shall exceed the estimated value of the property. Provided, however, unamortized loans secured by real estate may be made in accordance with the provisions of Section 7-1-286 of the Financial Institutions Code of Georgia and Regulation 80-1-5-.02.

(3) An association shall make loans of the types described in this Regulation in accordance with the provisions of Section 7-1-286 of the Financial Institutions Code of Georgia and Regulation 80-1-5-.02 unless otherwise provided herein.

(4) Aggregate loans to a single borrower shall not exceed two (2) percent of an association's share capital or \$75,000, whichever is greater. Provided, in lieu of the foregoing, a State savings and loan association shall comply with the provisions of Section 7-1-285 and Rule 80-1-5 in determining the maximum aggregate loans which may be made to a single borrower.

(5) Every real estate loan shall be secured by a mortgage or other instrument constituting a lien, or the full equivalent thereof, upon the real estate securing the loan according to any lawful or well-recognized practice which is best suited to the transactions.

(6) An association may make or purchase any and all loans specifically authorized to be made or purchased in this State by federal chartered savings and loan associations, provided such association meets all of the conditions and requirements set forth with reference to such lending by federal associations.

(7) An association may participate with other lenders in making loans of any type that such association may otherwise make.

(8) An association may make loans or otherwise extend credit to its officers and directors, provided such extensions of credit are in compliance with the provisions of Section 7-1-491 of the Financial Institutions Code of Georgia.

(9) Except as otherwise provided in this Chapter 80-4, all extensions of credit made by an association shall conform with the provisions of Sections 7-1-285 and 7-1-286 of the Financial Institutions Code of Georgia and Regulation 80-1-5 promulgated pursuant thereto.

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-.11 Application of Division 80-1 of Rules and Regulations of the Department. Amended.

(1) The following Rules of the Department applicable to other financial institutions shall be applicable to an association:

- (a) Chapter 80-1-1 relating to Applications;
- (b) Chapter 80-1-2 relating to Bank Service Contracts;
- (c) Chapter 80-1-3 relating to Books and Records;
- (d) Rule 80-1-5-.04 relating to Participation Loans;
- (e) Chapter 80-1-6 relating to Bank Financial Reports and Other Reports;
- (f) Chapter 80-1-8 relating to Dormant Accounts;
- (g) Chapter 80-1-10 relating to Fixed Assets;
- (h) Chapter 80-1-11 relating to Public Disclosure of Information; and
- (i) Chapter 80-1-14 relating to Audits.

(2) The Department may provide for exceptions to the foregoing when appropriate to draw distinctions between a building and loan association, a State savings and loan association and other financial institutions in keeping with the provisions of Sections 7-1-3 and 7-1-61 of the Financial Institutions Code of Georgia.

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-.12 Dividends, Earnings and Interest. Amended.

An association may, after adoption by its Board of Directors of a resolution so providing and while such resolution remains in effect, distribute earnings on any designated class or classes of deposit accounts as of such date or dates as may be designated in such resolution; provided, the association shall not pay any dividend or interest which would impair the General Reserve Fund without the prior approval of the Commissioner. Such payments of dividends or interest may not exceed amounts allowed to be paid by a federal savings and loan association.

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-.13 Branches. Amended.

An association shall not establish branches of such association unless there is a reasonable probability of it's usefulness and success, and that the establishment of such branch will not cause undue injury to properly conducted existing local thrift and home-financing institutions, and until a permit has been issued by the Commissioner authorizing the establishment of such branch institutions.

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-.14 Foreclosed Property.

An association may acquire and hold property for the purpose of avoiding loss subject to a determination by a majority of its directors at least once each year as to the advisability of retaining any such property, provided no such property may be held for more than five (5) years without the prior written approval of the Department. Shares of its own stock so acquired and shares of stock of any State savings and loan association, bank, bank holding company, or trust

company so acquired must be sold or otherwise divested within six months after such acquisition unless the Department approves a longer holding period. Holding of foreclosed property shall further be subject to the provisions of Regulation 80-1-10-.09.

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-.15 Credit for Brokered Loans.

In determining whether an association conforms with the minimum requirements for residential real estate loans, credit shall be given for loans generated through the association although sold to other investors in accordance with the following:

Loans closed during the preceding:

0 - 12th months	100%
13th - 24th months	95%
25th - 36th months	90%
37th - 48th months	85%
49th - 60th months	80%
61st- 72nd months	75%
73rd - 84th months	70%

Authority Ga. L. 1974, pp. 703, 733, 945.